

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

NOV - 2 2023

IN RE:

RETROACTIVE APPLICATION OF
AMENDMENT 821 OF THE SENTENCING
GUIDELINES RELATED TO U.S.S.G.
§§ 4A1.1(e) AND 4C1.1

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ADMINISTRATIVE ORDER
NO. 23-07
First Amendment

KEVIN P. WEIMER, Clerk
By: *M. Han* Deputy Clerk

UPON CONSIDERATION of a joint proposal submitted by the United States Attorney's Office, the Federal Defender Program, Inc., and the United States Probation Office for the Northern District of Georgia;

UPON REVIEW of Amendment 821 of the United States Sentencing Guidelines, which amends the text in U.S.S.G. §§ 4A1.1 and 4C1.1 and grants authority to district courts to grant defendants' motions for retroactive reductions in sentence pursuant to 18 U.S.C. § 3582(c)(2);

RECOGNIZING that no defendant may be released under Amendment 821 until February 1, 2024, and recognizing that this delay will allow judges, the Bureau of Prisons, and the United States Probation Office adequate time to review defendants' cases and, for those defendants eligible for release, ensure that each prisoner receives appropriate transitional services—including placement in halfway houses—to help increase the chances of successful reentry into society;

IT IS HEREBY ORDERED pursuant to the provisions of the Criminal Justice Act, 18 U.S.C. §§ 3006A(a)(1) and (c), that the Federal Defender Program, Inc., is appointed to review the file of each defendant on the United States Sentencing Commission's list and every other defendant who files in this Court a *pro se* motion for a reduction in sentence under Amendment 821 and 18 U.S.C. § 3582(c)(2). The Federal Defender Program also is appointed to review the case of each defendant who files a motion to appoint counsel to pursue such a motion or who directly contacts the Court or the Federal Defender Program asking whether he or she is eligible

for a reduced sentence under the amended guideline. The Federal Defender Program will ascertain each defendant's eligibility for relief and whether a conflict of interest precludes it from representation. The Federal Defender Program must notify the Court upon identifying a prohibitive conflict in which the prospective client's interests are materially adverse to those of a current or former client, and the Court will consider appointing a member of the Criminal Justice Act panel of this District. The Federal Defender Program also must send a letter to each defendant whose case is reviewed through this order that explains the limited scope of this appointment and that the defendant may decline or opt out of the representation;

IT ALSO IS ORDERED that upon request, the United States Probation Office will provide the Federal Defender Program, counsel who have been retained by defendants, and the United States Attorney's Office a copy of the Presentence Report and Statement of Reasons for each defendant's case reviewed through this administrative order, plus a comparison of the defendant's initial sentencing guidelines calculations and the amended guidelines calculations so that all parties have the information needed to file their pleadings;

IT ALSO IS ORDERED that the United States Attorney's Office, in conjunction with the Federal Defender Program and the United States Probation Office, must, when practicable, prioritize defendants by release date. For example, the parties will prioritize the review of motions for eligible defendants with projected release dates in 2024, then review all eligible defendants scheduled for release in 2025, and so on, until all eligible defendants' motions have been reviewed;

IT IS FURTHER ORDERED that all motions already filed by, and those filed in the future by, defendants seeking relief under Amendment 821, be **STAYED** until February 1, 2024, after which those motions will be addressed in the order outlined above.

SO ORDERED this 21 day of November, 2023.



HON. TIMOTHY C. BATTEN, SR.
CHIEF UNITED STATES DISTRICT JUDGE

Prepared and Presented By:

Ryan K. Buchanan, *United States Attorney*
Stephanie A. Kearns, *Executive Director,*
Federal Defender Program, Inc.

Copy to:

Donna M. High, *Chief United States Probation Officer*